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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/445,268

Filing Date: April 03, 2000

Appellant(s): SCHNEIDEWEND ET AL.

Reitseng Lin
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed May 22, 2007 appealing from the Office action mailed September 21, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,850,218

LaJoie et al.

12-1998

RCA DRD202RA Satellite Receiver Owner's Manual, Thomson Consumer Electronics, Inc., p.
29, 1996

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

New Grounds of Rejection

1. Claims **16** and **17** are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory “process” under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing (Reference the May 15, 2008 memorandum issued by Deputy Commissioner for Patent Examining Policy, John J. Love, titled “Clarification of ‘Processes’ under 35 U.S.C. 101”). The instant claims neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process.

Existing Grounds of Rejection

1. Claims **16-18, 20, 22, 24** are rejected under 35 U.S.C. 103(a) as being unpatentable over LaJoie et al.

Referring to claim **16**, LaJoie et al. discloses a method for processing a plurality of programs, comprising:

- receiving a first user input selecting a first program for removal from a first list representing a list of programs scheduled for recording (removing a program

scheduled only for recording from the all timers list would remove it from the VCR timers list)(col. 22, 1. 47-56 & Fig. 14);

- receiving a second user input selecting a second program for removal from a second list representing a list of programs purchased (col. 22, 1. 47-56 & Fig. 14);

LaJoie et al. does not specifically disclose determining whether said second program also appears on said first list responsive to said second user input and removing, automatically, said second program from said first list if said second program appears on said first list; however, the examiner notes that if a program scheduled for purchasing and recording is canceled from the all timers list, it would be counterintuitive to list it with the VCR timers and PPV purchases in the general settings menu. LaJoie et al. specifically states that selecting the all timers setting causes the display of all active timers in the set-top terminal (col. 22, 1. 47-56 & Fig. 14). Thus, in canceling a timer from the all timers setting, the program can no longer be scheduled for purchasing or recording. Removing a program scheduled for purchasing and recording from the all timers list, but not from the list of PPV purchases or VCR timers would cause the PPV purchases and VCR timers lists to present false information to the user. Therefore, it would have been obvious to one of ordinary skill in the art at the time that the invention was made to remove a scheduled event from a list in response to removing the event from a list of all scheduled events, in order to avoid confusing a user.

Referring to claim 17, LaJoie et al. discloses a method for processing a program, comprising:

- removing, in response to a user command, said program from a first list of programs representing programs scheduled for recording (removing a program scheduled only for recording from the all timers list would remove it from the VCR timers list)(col. 22, 1. 47-56 & Fig. 14);

LaJoie et al. does not specifically disclose determining, in response to said user command, whether said program is also a purchased program; enabling an on screen display including an option to cancel the purchase of said program if it is determined that said program is also a purchased program; and removing said program from a second list of programs representing purchased programs; however the examiner notes that if a program scheduled for purchasing and recording is canceled from the all timers list, it would be counterintuitive to list it with the VCR timers and PPV purchases in the general settings menu. LaJoie et al. specifically states that selecting the all timers setting causes the display of all active timers in the set-top terminal (col. 22, 1. 47-56 & Fig. 14). In canceling a timer from the all timers setting, the program can no longer be scheduled for purchasing or recording and would no longer appear on any timer list. LaJoie et al. also suggests the use of conflict checking features in verifying that there are no conflicts created by a modified setting (for example, when there are overlapping timers)(col. 21, 1. 30-35). LaJoie et al. specifically states the example of a warning screen that alerts the user when trying to record an IPPV program and provides the user with the option of purchasing the program or canceling the warning (col. 21, 1. 42-49). LaJoie et al. further illustrates that programs can be selected for purchasing and viewing or purchasing and recording (indicated by REC and PPV or the timer icon and PPV)(Fig. 14). Since a program can be scheduled for purchasing and recording or purchasing and viewing, it would have been obvious to one of

ordinary skill in the art at the time that the invention was made to use a conflict checking feature to allow a user the options of either purchasing and viewing the program or canceling the program from all timers in order to provide a more user-friendly interface.

Referring to claim 18, LaJoie et al. discloses an apparatus for processing a program, comprising first means for receiving a first user input selecting a first program for removal from a first list representing a list of programs scheduled for recording (removing a program scheduled only for recording from the all timers list would remove it from the VCR timers list)(col. 22, 1. 47-56 & Fig. 14), and for receiving a second user input selecting a second program for removal from a second list representing a list of programs purchased (col. 22, 1. 47-56 & Fig. 14). LaJoie et al. does not specifically disclose a second means for determining whether said second program also appears on said first list responsive to said second user input; and removing, automatically, said second program from said first list if said second program appears on said first list; however, the examiner notes that if a program scheduled for purchasing and recording is canceled from the all timers list, it would be counterintuitive to list it with the VCR timers and PPV purchases in the general settings menu. LaJoie et al. specifically states that selecting the all timers setting causes the display of all active timers in the set-top terminal (col. 22, 1. 47-56 & Fig. 14). Thus, in canceling a timer from the all timers setting, the program can no longer be scheduled for purchasing or recording. Removing a program scheduled for purchasing and recording from the all timers list, but not from the list of PPV purchases or VCR timers would cause the PPV purchases and VCR timers lists to present false information to the user. Therefore, it would have been obvious to one of ordinary skill in the art at the time that the

invention was made to remove a scheduled event from a list in response to removing the event from a list of all scheduled events, in order to avoid confusing a user.

Referring to claim 20, LaJoie et al. discloses an apparatus for processing a program, comprising:

- first means for receiving a user command (pressing the record key 472 with a program 474 highlighted causes a VCR timer to be set up for the highlighted program and further causes the program to be added to the VCR timers in the general settings menu 480 and added to the all timers setting in the general settings menu)(col. 22, l. 47-52; col. 29, l. 5-16; Fig. 14; & Fig. 24); and
- second means for removing said program from a first list of programs representing programs scheduled for recording responsive to said user command (removing a program scheduled only for recording from the all timers list would remove it from the VCR timers list)(col. 22, l. 47-56 & Fig. 14).

LaJoie et al. does not specifically disclose said second means determining whether said program is also a purchased program responsive to said user command; enabling an on screen display including an option to cancel the purchase of said program if it is determined that said program is also a purchased program; wherein said program is removed from a second list of programs representing purchased programs responsive to user selection of said option; however, the examiner notes that if a program scheduled for purchasing and recording is canceled from the all timers list, it would be counterintuitive to list it with the VCR timers and PPV purchases in the general settings menu. LaJoie et al. specifically states that selecting the all timers setting causes the display of all active timers in the set-top terminal (col. 22, l. 47-56 & Fig. 14). In canceling

a timer from the all timers setting, the program can no longer be scheduled for purchasing or recording and would no longer appear on any timer list. LaJoie et al. also suggests the use of conflict checking features in verifying that there are no conflicts created by a modified setting (for example, when there are overlapping timers)(col. 21, l. 30-35). LaJoie et al. specifically states example of a warning screen that alerts the user when trying to record an IPPV program and provides the user with the option of purchasing the program or canceling the warning (col. 21, 1.42-49). LaJoie et al. further illustrates that programs can be selected for purchasing and viewing or purchasing and recording (indicated by REC and PPV or the timer icon and PPV)(Fig. 14). Since a program scheduled for purchasing and recording could also be scheduled for purchasing and viewing, it would have been obvious to one of ordinary skill in the art at the time that the invention was made to use a conflict checking feature to allow a user the options of either purchasing and viewing the program or canceling the program from all timers in order to provide a more user-friendly interface.

Referring to claim 22, LaJoie et al. discloses an apparatus for processing a program, comprising a receiver operative to receive a first user input selecting a first program for removal from a first list representing a list of programs scheduled for recording (removing a program scheduled only for recording from the all timers list would remove it from the VCR timers list)(col. 22, l. 47-56 & Fig. 14), and to receive a second user input selecting a second program for removal from a second list representing a list of programs purchased (col. 22, l. 47-56 & Fig. 14). LaJoie et al. does not specifically disclose a processor operative to determine whether said second program also appears on said first list responsive to said second user input; and to automatically remove said second program from said first list if said second program appears on

said first list; however, the examiner notes that if a program scheduled for purchasing and recording is canceled from the all timers list, it would be counterintuitive to list it with the VCR timers and PPV purchases in the general settings menu. LaJoie et al. specifically states that selecting the all timers setting causes the display of all active timers in the set-top terminal (col. 22, 1. 47-56 & Fig. 14). Thus, in canceling a timer from the all timers setting, the program can no longer be scheduled for purchasing or recording. Removing a program scheduled for purchasing and recording from the all timers list, but not from the list of PPV purchases or VCR timers would cause the PPV purchases and VCR timers lists to present false information to the user. Therefore, it would have been obvious to one of ordinary skill in the art at the time that the invention was made to remove a scheduled event from a list in response to removing the event from a list of all scheduled events, in order to avoid confusing a user.

Referring to claim 24, LaJoie et al. discloses an apparatus for processing a program, comprising:

- a receiver operative to receive a user command (pressing the record key 472 with a program 474 highlighted causes a VCR timer to be set up for the highlighted program and further causes the program to be added to the VCR timers in the general settings menu 480 and added to the all timers setting in the general settings menu)(col. 22, 1. 47-52; col. 29, 1. 5-16; Fig. 14; & Fig. 24); and
- a processor operative to remove said program from a first list of programs representing programs scheduled for recording responsive to said user command

(removing a program scheduled only for recording from the all timers list would remove it from the VCR timers list)(col. 22, 1. 47-56 & Fig. 14).

LaJoie et al. does not specifically disclose said processor being further operative to determine whether said program is also a purchased program responsive to said user command; and to enable an on screen display including an option to cancel the purchase of said program if it is determined that said program is also a purchased program; wherein said program is removed from a second list of programs representing purchased programs responsive to user selection of said option; however, the examiner notes that if a program scheduled for purchasing and recording is canceled from the all timers list, it would be counterintuitive to list it with the VCR timers and PPV purchases in the general settings menu. LaJoie et al. specifically states that selecting the all timers setting causes the display of all active timers in the set-top terminal (col. 22, 1. 47-56 & Fig. 14). In canceling a timer from the all timers setting, the program can no longer be scheduled for purchasing or recording and would no longer appear on any timer list. LaJoie et al. also suggests the use of conflict checking features in verifying that there are no conflicts created by a modified setting (for example, when there are overlapping timers)(col. 21, 1. 30-35). LaJoie et al. specifically states example of a warning screen that alerts the user when trying to record an IPPV program and provides the user with the option of purchasing the program or canceling the warning (col. 21, 1. 42-49). LaJoie et al. further illustrates that programs can be selected for purchasing and viewing or purchasing and recording (indicated by REC and PPV or the timer icon and PPV)(Fig. 14). Since a program scheduled for purchasing and recording could also be scheduled for purchasing and viewing, it would have been obvious to one of ordinary skill in the art at the time that the invention was made to use a conflict

checking feature to allow a user the options of either purchasing and viewing the program or canceling the program from all timers in order to provide a more user-friendly interface.

2. Claims **19, 21, 23, 25** are rejected under 35 U.S.C. 103(a) as being unpatentable over LaJoie et al. in view of the RCA DRD202RA Owner's Manual.

Referring to claims **19, 21, 23, and 25**, LaJoie et al. teaches the apparatus of claims 18, 20, 22, and 24, respectively. LaJoie et al. also discloses a process for purchasing an Impulse-Pay-Per-View (IPPV) event (col. 31, l. 33-49 & Fig. 29). Buying an IPPV event causes the program to be added to the PPV purchases in the general settings menu (col. 22, l. 16-25 & Fig. 13). LaJoie et al. further discloses a conflict checking feature. If a user attempts to record an IPPV event, an interactive warning window 270 is displayed alerting the user that the IPPV event sought to be recorded has not been purchased, then allows the user to press "B" application definable key 252 to buy the event (col. 21, l. 42-49 & Fig. 12). LaJoie et al. still further discloses an all timers setting of the general settings menu in which it is clearly shown that programs can be scheduled for future recording, purchasing, or both purchasing and recording (col. 22, l. 47-52 & Fig. 14). LaJoie et al. does not teach that said second means enables display of an on screen user option indicating that a user can both purchase and record a selected program so that said user does not have to select one of purchase and record user options and then select the other user option to purchase and record said selected program. RCA DRD202RA Owner's Manual discloses a Buy and Record Option (Buy and Record Option p. 29). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to replace the conflict checking functionality of recording an IPPV program of LaJoie

et al. with a Buy and Record Option, such as that taught by the RCA DRD202RA Owner's Manual in order to provide a more user-friendly interface.

(10) Response to Argument

Regarding claims 16-18, 20, 22, and 24, the appellant argues that the examiner is applying the wrong legal standard for obviousness under 35 U.S.C. §103(a). The examiner respectfully disagrees. The appellant specifically argues that the mere fact that a prior art device could (in hindsight) be modified to produce a claimed invention is not a basis for an obviousness rejection unless the prior art suggests the desirability of such a modification. The appellant states that LaJoie et al. fails to teach or suggest the desirability of the inventions defined by independent claims 16, 17, 18, 20, 22, and 24. The appellant further states that, in fact, LaJoie et al. fails to even recognize the specific problems that the appellants' have recognized and addressed by the inventions defined by independent claims 16, 18, and 22.

The examiner notes that 35 U.S.C. §103(a) states:

"A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the *subject matter as a whole would have been obvious at the time that the invention was made to a person having ordinary skill in the art to which said subject matter pertains*" (italicized for emphasis).

In the consideration and determination of obviousness under 35 U.S.C. 103, the examiner notes that it is Office policy to follow *Graham v. John Deere Co.* The four factual inquiries enunciated therein as a background for determining obviousness are as follows:

- (A) Determining the scope and contents of the prior art;
- (B) Ascertaining the differences between the prior art and the claims in issue;
- (C) Resolving the level of ordinary skill in the pertinent art; and
- (D) Evaluating evidence of secondary considerations.

(A) Determining the scope and contents of the prior art

As noted in the Final Rejection, LaJoie et al. discloses a list of VCR timers (col. 20, l. 53-62 & Figs. 10, 11). The user can cancel VCR timers from the VCR timers list by pressing a “C” key (col. 21, l. 22-29). LaJoie et al. also discloses a list of past and pending Impulse Pay-Per-View (IPPV) purchases. A pending purchase can be removed from the list by pressing a stop key with a particular purchase highlighted (col. 22, l. 15-36 & Fig. 13). LaJoie et al. further discloses a list of reminder timers (col. 20, l. 21-22 & Fig. 14). Reminder timers are set when a future program is selected or purchased for watching (col. 7, l. 26-32; col. 29, l. 59-67; & col. 30, l. 1-7). LaJoie et al. still further discloses that a user can watch and record a program (col. 20, l. 26). Thus, LaJoie et al. discloses a list of programs scheduled for recording, a list of programs scheduled for purchase, and a list of programs scheduled for reminder.

Additionally, LaJoie et al. discloses an all timers setting of a general settings menu. Selecting the all timers setting within the general settings menu causes a list of all active timers in the set-top terminal to be displayed (col. 22, l. 47-52 & Fig. 14). LaJoie et al. further discloses

that a user can select a program for purchasing and recording, thereby setting PPV and recording timers (for example, the top listing in the all timers menu)(Fig. 14). LaJoie et al. still further discloses that a user can select a program for purchasing and watching, thereby setting PPV and reminder timers (for example, the channel 77 listing of the all timers menu)(Fig. 14). Pressing the stop key with any timer highlighted causes that timer to be canceled and accordingly removed from the all timers list (col. 22, l. 52-56).

LaJoie et al. further discloses resolving conflicts that arise when a timer setting's contents are modified within the general settings menu (col. 21, l. 30-35). LaJoie et al. discloses that conflicts can arise, for example, when there are overlapping timers, unusual settings, record timers for unpurchased Impulse Pay-Per-View (IPPV) events, etc. (col. 21, l. 30-67 & col. 22, l. 1-5). LaJoie et al. further discloses that a conflict can be resolved by displaying an interactive warning window that presents the user with options for resolving the conflict (col. 21, l. 42-67 & col. 22, l. 1-5).

(B) Ascertaining the differences between the prior art and the claims in issue

Regarding claims 16, 18, and 22, the claims are directed to selecting a program for removal from a list of purchased programs, determining whether the program also appears on a list of programs scheduled for recording, and automatically removing the program from the list of programs scheduled for recording if the program appears on that list. LaJoie et al. does not specifically disclose determining whether the program also appears on the list of programs scheduled for recording (VCR timers list) and removing, automatically, said program from the list if the program appears on the list. LaJoie et al. does; however, specifically describe conflict

checking features for resolving conflicts that arise when there are record timers for unpurchased Impulse Pay-Per-View (IPPV) events (col. 21, l. 38-39). LaJoie et al. further discloses requiring a user to purchase an IPPV event before setting a record timer for the event (col. 21, l. 42-49 & Fig. 12). LaJoie et al. still further discloses allowing a user to cancel pending purchases for IPPV events (col. 22, l. 25-31).

LaJoie et al. also discloses an all timers setting that causes the display of all active timers in the set-top terminal (col. 22, l. 47-56 & Fig. 14). A user can press a stop key with any timer highlighted, causing that timer to be canceled and accordingly removed from the all timers list (col. 22, l. 52-56). The examiner notes that, in canceling a program timer from the all timers setting, the timer would no longer be active in any of the other timer lists, since the all timers setting displays each active timer in the set-top terminal (col. 22, l. 47-52).

Regarding claims **17, 20, and 24**, the claims are directed to selecting a program for removal from a list of programs scheduled for recording, determining whether the program is also a purchased program, enabling an on screen display including an option to cancel the purchase of the program if it is determined that the program is also a purchased program, and removing the program from a second list of programs representing purchased programs responsive to user selection of said option. LaJoie et al. does not specifically disclose determining, in response removing a program from a VCR timers list, whether said program is also a purchased program, enabling an on screen display including an option to cancel the purchase of the program if it is determined that the program is also a purchased program, and removing the program from a list of programs representing purchased programs responsive to user selection of said option. LaJoie et al. does; however, specifically describe conflict checking

features for resolving conflicts that arise when there are overlapping timers, unusual settings, etc. (col. 21, l. 30-42). LaJoie et al. further discloses that a conflict can be resolved by displaying an interactive warning window that presents the user with options for resolving the conflict (col. 21, l. 42-67 & col. 22, l. 1-5). LaJoie et al. also discloses that a user can select a program for purchasing and recording, thereby setting PPV and recording timers (for example, the top listing in the all timers menu)(Fig. 14). LaJoie et al. still further discloses that a user can select a program for purchasing and watching, thereby setting PPV and reminder timers (for example, the channel 77 listing of the all timers menu)(Fig. 14). LaJoie et al. also discloses that reminder timers are set when a future program is selected or purchased for watching (col. 7, l. 26-32; col. 29, l. 59-67; & col. 30, l. 1-7). LaJoie et al. still further discloses that a user can watch and record a program (col. 20, l. 26).

LaJoie et al. also discloses an all timers setting that causes the display of all active timers in the set-top terminal (col. 22, l. 47-56 & Fig. 14). A user can press a stop key with any timer highlighted, causing that timer to be canceled and accordingly removed from the all timers list (col. 22, l. 52-56). The examiner notes that, in canceling a program timer from the all timers setting, the timer would no longer be active in any of the other timer lists, since the all timers setting displays each active timer in the set-top terminal (col. 22, l. 47-52).

(C) Resolving the level of ordinary skill in the pertinent art

As noted above regarding claims 16, 18, and 22, LaJoie et al. discloses requiring a user to purchase an IPPV event before setting a record timer for the event (col. 21, l. 42-49 & Fig. 12). LaJoie et al. further discloses allowing a user to cancel pending purchases for IPPV events (col.

22, l. 25-31). LaJoie et al. still further discloses resolving conflicts that occur when there are record timers for unpurchased IPPV events (col. 21, l. 38-39). As further noted above, LaJoie et al. discloses removing a program scheduled for purchasing and recording from an all timers setting representing each active timer in the set-top terminal (col. 22, l. 47-52). Although not explicitly disclosing determining whether a program removed from a list of pending IPPV purchases also appears on a VCR timers list, and if so, automatically removing the program from the VCR timers list, LaJoie et al. clearly discloses requiring a user to purchase an IPPV event prior to recording the event and resolving conflicts that arise when there are record timers for unpurchased IPPV events. LaJoie et al. further clearly illustrates that it was within the realm of one of ordinary skill in the pertinent art to coordinate lists in response to a single user selection. For example, in purchasing a future IPPV event, the program would be added to both the pending purchases and reminder timers lists (illustrated by channel 77 program scheduled for purchasing and reminding) (col. 7, l. 26-32; col. 20, l. 21-22; col. 29, l. 59-67; col. 30, l. 1-7; & Figs. 14, 26). As another example, LaJoie et al. illustrates that in pressing a B (Buy) button on screen 270 of Fig. 12 or screen 496 of Fig. 25, a program would be added to both a VCR timers list and a pending purchases list (illustrated by channel 75 program scheduled for purchasing and recording)(Figs. 12, 25). Thus, LaJoie et al. discloses a desire to resolve the conflicts that arise when there are record timers for unpurchased IPPV events and that it was within the level of one of ordinary skill in the art to coordinate multiple lists involving a single program in response to a single user selection at the time that the invention was made. As such, it would have been obvious to one of ordinary skill in the art to apply the technique of appropriately updating multiple lists containing a single program in response to a single user selection, such as that

taught by LaJoie et al., to improve the interactive program guide of LaJoie et al. for the predictable result of resolving the conflict that occurs when there is a record timer for an unpurchased IPPV event.

The examiner acknowledges the appellant's argument that the appellant has recognized the problems associated with a user having to redundantly perform the same task twice by canceling both a program purchase and a program recording, and the appellant's further argument that appellant's invention does not require the user to perform the same task twice by removing the program from the first list of programs scheduled for recording. The examiner notes; however, that LaJoie et al. does suggest that a conflict exists when there is a record timer for an unpurchased IPPV event, as noted above. The examiner further notes that broadly providing an automatic means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art (see *In re Venner*). As such, the examiner maintains that "automatically removing a program from a first list of programs scheduled for recording in response to user removal of the program from a second list of programs selected for purchase" is not sufficient to distinguish over LaJoie et al.'s "having to redundantly perform the same task twice by canceling both a program purchase and a program recording," as argued by the appellant.

As noted above regarding claims 17, 20, and 24, LaJoie et al. discloses that a program can be selected for purchasing and recording (top listing of Fig. 14), thereby adding the program to the VCR timers list and the pending purchases list. LaJoie et al. also discloses that a program can be selected for purchasing and watching (channel 77 listing of Fig. 14), thereby adding the program to the pending purchases list and the reminder timers list. LaJoie et al. further discloses

that a program can be selected for watching and recording (col. 20, l. 26), thereby adding the program to the VCR timers list and the reminder timers list. LaJoie et al. discloses resolving conflicts that arise when there are overlapping timers, unusual settings, etc. by displaying an interactive warning window 270 that presents the user with options for resolving the conflict (col. 21, l. 30-67; col. 22, l. 1-5; & Fig. 12). The two particular examples used by LaJoie et al. are resolving a conflict that occurs when a user attempts to record an IPPV event (col. 21, l. 42-49) and resolving a conflict that occurs when there are conflicting timers (col. 21, l. 49-67 & col. 22, l. 1-5). The examiner notes that, if a user were to cancel a program scheduled for purchasing and recording from the all timers list, the selection could result in a conflict if there were a reminder timer set in response to the purchasing or recording selections, since there would be overlapping timers. Even if no conflict were caused by the selection, it would be confusing to the user to cancel all of the timers associated with the program, since the user may only have wanted to remove a VCR timer while still purchasing and watching the program. Although not explicitly disclosing an interactive warning window to resolve such a situation, LaJoie et al. clearly discloses that a user may schedule a program for purchasing and recording or purchasing and watching (Fig. 14) and further clearly discloses the use of interactive warning windows to resolve conflicts caused by overlapping timers and unusual settings (col. 21, l. 30-37 & fig. 12). As such, LaJoie et al. clearly illustrates that it was within the realm of one of ordinary skill in the pertinent art to display an interactive window with user-selectable options to resolve a situation. Thus, it would have been obvious to one of ordinary skill in the art to apply the technique of displaying an interactive warning window with user-selectable options, such as that taught by

LaJoie et al., to improve the interactive program guide of LaJoie et al. for the predictable result of resolving a conflict that occurs when a program is associated with multiple timers.

The examiner acknowledges the appellant's argument that there is no inherent conflict when a user cancels the scheduled recording of a purchased program, and that, in the claimed invention, a user may cancel the scheduled recording of a purchased program, but still want to purchase the program. The examiner notes; however, that a user of the system of LaJoie et al. may similarly want to cancel a scheduled recording of a program scheduled for purchase (channel 75)(Fig. 14), but still want to purchase and watch the program (channel 77)(Fig. 14). If both a reminder timer and a VCR timer were associated with the program scheduled for purchase (such as if watch and record were enabled)(col. 20, l. 26), the program guide would not know which timer to cancel in response to a user pressing the stop key with the program highlighted. Since a user of Lajoie et al. may wish to cancel a VCR timer from a program scheduled for purchasing and recording, but still purchase and watch the program, the examiner maintains that it be obvious to one of ordinary skill in the art at the time that the invention was made to provide an interactive warning window with user-selectable buttons, such as that taught by LaJoie et al. in order resolve such a situation.

(D) Evaluating evidence of secondary considerations

Appellant has failed to provide any evidence of secondary considerations.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

This examiner's answer contains a new ground of rejection set forth in section (9) above. Accordingly, appellant must within **TWO MONTHS** from the date of this answer exercise one of the following two options to avoid *sua sponte* **dismissal of the appeal** as to the claims subject to the new ground of rejection:

(1) **Reopen prosecution.** Request that prosecution be reopened before the primary examiner by filing a reply under 37 CFR 1.111 with or without amendment, affidavit or other evidence. Any amendment, affidavit or other evidence must be relevant to the new grounds of rejection. A request that complies with 37 CFR 41.39(b)(1) will be entered and considered. Any request that prosecution be reopened will be treated as a request to withdraw the appeal.

(2) **Maintain appeal.** Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41. Such a reply brief must address each new ground of rejection as set forth in 37 CFR 41.37(c)(1)(vii) and should be in compliance with the other requirements of 37 CFR 41.37(c). If a reply brief filed pursuant to 37 CFR 41.39(b)(2) is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under 37 CFR 41.39(b)(1).

Extensions of time under 37 CFR 1.136(a) are not applicable to the TWO MONTH time period set forth above. See 37 CFR 1.136(b) for extensions of time to reply for patent

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applications and 37 CFR 1.550(c) for extensions of time to reply for ex parte reexamination proceedings.

Respectfully submitted,

Michael Van Handel

A Technology Center Director or designee must personally approve the new ground(s) of rejection set forth in section (9) above by signing below:

Timothy P. Callahan

/Timothy P Callahan/

Director, Technology Center 2400

Conferees:

Chris Kelley

/Chris Kelley/

Supervisory Patent Examiner, Art Unit 2424

Vivek Srivastava

/Vivek Srivastava/

Supervisory Patent Examiner, Art Unit 2426